CITY OF GALESBURG
KALAMAZOO COUNTY, MICHIGAN
SECOND AMENDMENT TO ORDINANCE NO. 275

AN ORDINANCE TO AMEND CHAPTER 78, ARTICLE III. WEEDS, OF THE GALESBURG CITY CODE OF ORDINANCES, TO DELETE AND REPLACE ORDINANCE NO. 260 (effective August 1, 2011), AND TO DELETE AND REPLACE THE FIRST AMENDMENT TO ORDINANCE NO. 260 (effective April 8, 2019); TO REPEAL ALL OTHER ORDINANCES OR PARTS THEREIN INCONSISTENT OR CONTRARY TO THIS ORDINANCE; AND TO PROVIDE FOR AN EFFECTIVE DATE FOR THIS ORDINANCE.

THE CITY OF GALESBURG ORDAINS:

ARTICLE I

Chapter 78, Article III, Weeds, shall be deleted in its entirety, and be replaced with the following:

Sec. 78-64. Definitions.

As used in this ordinance the following words and terms shall have the meanings stated herein:

A. "Noxious Weeds" means Canada thistle (Cirsium Arvense), dodders (any species of Cascuta), mustards (charlock, black mustard and Indian mustard, species of Brassica or Sinapis), wild carrot (Daucus Carota), bindweed (Convolvulus Arvensis), perennial sowthistle (Sonchus Arvensis), perennial sowthistle (Sonchus Arvensis), hoary alyssum (Berteron Incana), ragweed (Ambrosia Elatior 1.), poison ivy (Rhus Toxicodendron), poison sumac (Toxicodendron Vernix), and any other plant species which the City Council determines, by resolution, is regarded in the community as a common nuisance weed.

B. "Weeds and grasses" shall include, but are not limited to, vegetation which emit unpleasant, unhealthy or noxious odors or pollen, any high growth of vegetation including grasses which might conceal rubbish, waste materials, trash or which may constitute a fire hazard.

C. "Uncontrolled Plant Growth" means any non-woody vegetation exceeding a height of 12 inches; except where such vegetation is not out of character with the development of and landscaping in the surrounding area within 500 feet, and also excepting all small grain or food crops, such as wheat, corn, oats, barley or rye, and garden vegetables.

D. "Owner" and "occupant" shall mean any person or entity with any ownership or possessory right or interest, including deed holders and land contract vendees (whether recorded or unrecorded), mortgagees, lessees, and other tenants, residents, and any agent of any of same.

Sec. 78-65. Duty to Destroy/Cut Noxious Weeds, Uncontrolled Plant Growth, and Grasses.

A. The owner and occupant of land on which noxious weeds are found growing shall destroy such weeds before they reach a seed bearing state, or a height of 8 inches, whichever occurs first, and shall prevent their regrowth; provided that this requirement shall not apply to any incidental noxious weeds in fields devoted to growing any small grain or vegetable crop.
B. No owner or occupant occupying or in control of any lot or land within the limits of the city shall allow or maintain on such lot or land within 50 feet of any occupied building or public right of way any growth of noxious weeds plant growth, or grasses which have obtained the height of 8 inches.

Sec. 78-66. Administrative Procedures and Remedial Actions to Enforce Ordinance.

A. The City shall give notice of the application of this ordinance by one or both of the following means:

(1) publish in a newspaper of general circulation in the City during the month of March a Notice that weeds and/or plant growth in violation of this ordinance not destroyed/cut by May 1 of that year as required by this Ordinance may be destroyed/cut by the City, and that the owner of any such land shall be charged with the expenses incurred by the City to destroy/cut such weeds/plant growth as many times as is necessary to keep the land in compliance with this ordinance, and that the City shall have a lien against the land for the amount of such expenses, and that such lien shall be enforced in the manner provided by state law for the enforcement of real property tax liens; and/or

(2) mail by certified mail with return receipt requested a notice to the owner, occupant or agent of any lands in violation of this ordinance, describing the methods of treating and eradicating the weeds and/or otherwise complying with this ordinance, and giving notice of those matters referenced in subsection (1) immediately above. Failure to give such notice shall not constitute a defense to any action to enforce the payment of any penalty or debt provided for in this ordinance.

B. If the owner/occupant/agent has failed or refuses to comply with the ordinance after the publication of the "Notice of Obligation to Cut Weeds" provided for in Section 78-65(A) above, the City or its agent/designee may enter upon such land with or without mechanical equipment and destroy/cut the weeds/plant growth thereon in violation of this ordinance.

C. All expenses incurred in such destruction/cutting shall be paid by the owner of such land. The City shall have a lien upon such land for the full amount of such expenses, which may be enforced in the same manner as the enforcement of real property tax liens through entry upon the next tax roll of the City and assessment as a general City tax. Such expenses shall be subject to all interest and penalties provided for taxes due and collectible within the City under the general tax laws of the State of Michigan. In addition to the foregoing, the City may sue the owner in an appropriate court of law for the collection of such expenses.

Sec. 78-67. Violations and Enforcement.

A. Any person or entity who violates, disobeys, neglects or refuses to comply with any provision of this Ordinance, or any order issued under the Ordinance, including any conditions imposed thereon, or who causes, allows, or consents to any of same, shall be deemed to be responsible for a violation of this Ordinance.

Any person or entity responsible for a violation of this Ordinance, whether as an occupant, owner, licensee, agent, contractor, servant, employee, or otherwise, shall be liable as a principal. Each day that a violation exists shall constitute a separate offense.

B. Any violation of this Ordinance shall constitute a basis for such judgment, writ or order necessary to compel compliance with the Ordinance and/or to restrain and prohibit continuation of the violation, or other appropriate relief in any court of competent jurisdiction, in addition to any
other relief or sanction herein set forth or allowed by law.

C. A violation of this Ordinance is a municipal civil infraction as defined by Michigan statute and shall be punishable by a civil fine determined pursuant to City of Galesburg’s Fee Schedule.

Additionally, the violator shall pay costs which may include all expenses, direct and indirect, which the City has incurred in connection with the municipal civil infraction.

D. This ordinance shall be administered and enforced by the person designated by the City Council as the City Noxious Weed Commissioner, by the Ordinance Enforcement Officer(s) of the City, or by such other person(s) as the City Council may designate from time to time.

**ARTICLE II**

This Ordinance is adopted pursuant to Act 359 of 1941 and Act 279 of 1909; to secure the health, safety and welfare of the people of the City, to protect agricultural crops from invasive plant species, and to avoid a blighting factor, by the control, regulation, and eradication of certain noxious weeds, and also certain plant growth of excessive height; to establish remedies, provide for the enforcement and fix sanctions for the violation of this ordinance. All Ordinances or parts thereof in conflict herewith are hereby repealed and shall be of no further force and effect.

**ARTICLE III**

Any and all sections, terms, provisions and/or clauses herein shall be deemed independent and severable. Should any court of competent jurisdiction hold any section, term, provision or clause void and/or invalid, all remaining sections, terms, provisions and/or clauses not held void and/or invalid shall continue in force and effect.

**ARTICLE IV**

This Ordinance shall take force and effect on **March 24, 2020**.

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**CERTIFICATE**

I, Karen Bresson, City of Galesburg Clerk, do hereby certify that the foregoing City of Galesburg Second Amended Ordinance Number 275 was adopted by the City Council at a regular meeting held on **March 2, 2020**, and that the following is a record of the vote of the members of said City Council on said Amended Ordinance.

AYES: Pawlowski, Smith, Marble, West
NAYS: Harmon, Homan, Wortinger

ABSENT:  
ABSTAIN:  

Karen Bresson, Clerk
CITY OF GALESBURG

KALAMAZOO COUNTY, MICHIGAN

NOTICE OF OBLIGATION TO CUT WEEDS

To: The residents and property owners of the City of Galesburg, Kalamazoo County, Michigan and any other interested persons.

PLEASE TAKE NOTICE that in accordance with Michigan Public Act 359 of 1941, as amended, and the City of Galesburg Ordinance No. 275 all weeds, plant growth, and grasses in excess of 8 inches in height on lots or land, including vacant lots, within the City limits must be cut within 50 feet of any occupied building or public right of way by May 1, 2020, and must remain cut throughout the balance of said year by the owner, occupant or tenant in charge of the premises.

NOTICE IS HEREBY GIVEN that the City of Galesburg may enter the premises and cut the same as frequently as necessary during 2020 to comply with the foregoing regulations and may charge the cost thereof against the property owner and for collection may place the amount upon the next tax roll of the City as a tax lien against the offending premises.

PLEASE TAKE FURTHER NOTICE that any owner in default of the foregoing obligation to cut shall also be subject to a civil fine for each violation determined pursuant to the City of Galesburg’s Fee Schedule. Such cutting obligation shall not apply to fields devoted to growing any small grain food crops such as wheat, corn, oats, barley, or rye and garden vegetables.

Published in accordance with said Public Act and Ordinance by order of the Galesburg City Council.

CITY OF GALESBURG
Karen Bresson, Clerk
City of Galesburg
200 E. Michigan Avenue
Galesburg, MI 49053